OGC Has Reviewed Approved For Release 2001/09/04 : CIA-RDP84-00688R000200150001-8

OGC 80-00668 24 January 1980

MEMORANDUM FOR: C/BSD/OP

STATINTL

FROM:

Office of General Counsel

SUBJECT:

GEHA: Is GEHA Subject to ERISA?

You have asked whether GEHA is subject to ERISA. Section 4(a) of PL 93-406, 88 Stat. 829, 839, provides that ERISA:

...shall apply to any employee benefit plan if it is established or maintained—(1) by any employer engaged in commerce or in any industry or activity affecting commerce; or (2) by any employee organization or organizations representing employees engaged in commerce in any industry activity affecting commerce; or (3) by both.

CIA is not engaged in commerce and is not an actively affecting commerce. Section 4(b) further provides:

The provisions of this title shall not apply to any employee benefit plan of (1) such plan is a governmental plan (as defined in Section 3[32]).

Section 3(32) defines governmental plan as:

...a plan established or maintained for its employees by the Government of the United States, by the Government of any State, or political subdivision thereof, instrumentally of any of the foregoing.

GEHA is, therefore, not subject to ERISA.



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06C-Opinion

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